

No. 12-1320RV

1. Jackson resided within the city limits of Columbia, Missouri, at all times relevant to these findings.

2. On November 9, 2009, Jackson purchased a motor vehicle for a net price of \$16,564 from a motor vehicle dealer in Missouri.
3. On November 13, 2009, Jackson registered the motor vehicle at a license office.
4. Although Jackson provided his correct address to the license office when he registered the motor vehicle, the license office determined that he owed Boone County local sales tax -- 1.125 % -- on his purchase of the motor vehicle instead of City of Columbia local sales tax, which is 3.125 %.
5. Thus, Jackson paid Missouri state sales tax on the net purchase price of the motor vehicle in the amount of \$699.83, reflecting the State's sales tax rate of 4.225%, and Boone County sales tax on the net purchase price of the motor vehicle in the amount of \$186.35.
6. The City of Columbia audited the license office. The audit determined that Jackson had paid local sales tax at the lower rate imposed by Boone County, instead of the higher rate applicable in the City of Columbia, on his vehicle purchase.
7. On June 22, 2012, the Director issued a final decision assessing Jackson local sales tax in the amount of \$517.63 for the vehicle. Also in this final decision the Director assessed a balance due of \$331.27. This amount was miscalculated by \$0.01. The difference between local sales tax in Columbia and local sales tax in Boone County was \$331.28.
8. Jackson timely appealed the Director's final decision.

### **Conclusions of Law**

We have jurisdiction to hear Jackson's complaint.<sup>1</sup> Jackson has the burden to prove he is not liable for the amount that the Director assessed.<sup>2</sup> Our duty in a tax case is not merely to review the Director's decision, but to find the facts and to determine, by the application of

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<sup>1</sup> Section 621.050.1. Statutory references, unless otherwise noted, are to RSMo 2000.

<sup>2</sup> Sections 621.050.2 and 136.300.2.

existing law to those facts, the taxpayer's lawful tax liability for the period or transaction at issue.<sup>3</sup> We may do whatever the law permits the Director to do, and we must do what the Director must do.<sup>4</sup>

Section 144.070.1, RSMo Supp. 2012, provides:

At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

Section 144.069 provides:

**All sales of motor vehicles, trailers, boats and outboard motors shall be deemed to be consummated at the address of the owner thereof,** and all leases of over sixty-day duration of motor vehicles, trailers, boats and outboard motors subject to sales taxes under this chapter shall be deemed to be consummated unless the vehicle, trailer, boat or motor has been registered and sales taxes have been paid prior to the consummation of the lease agreement at the address of the lessee thereof on the date the lease is consummated, **and all applicable sales taxes levied by any**

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<sup>3</sup> *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

<sup>4</sup> *State Bd. of Regis'n for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App., W.D. 1974).

**political subdivision shall be collected on such sales by the state department of revenue on that basis.**

(Emphasis added). Thus, when the purchaser of a motor vehicle registers that vehicle, he or he must pay all applicable taxes, including all sales taxes levied by a political subdivision. The local sales taxes are determined by the owner's address because § 144.069 deems any such sale to be consummated there.

Finally, § 32.087.13, RSMo Supp. 2012, provides:

**Local sales taxes** imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but **shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.**

(Emphasis added). Jackson lived within the City of Columbia when he registered the motor vehicle. The City of Columbia imposed a higher local sales tax than Boone County on the purchase of motor vehicles. Jackson paid local sales tax at Boone County's lower rate because that is what the license office instructed him to pay.

Jackson registered his vehicle and paid the tax, believing he had discharged his duty. Over two years later, he received a notice telling him he owed additional tax. This was, undoubtedly, an unpleasant surprise. Although the notice of assessment failed to state it, his underpayment of local sales tax was due to a mistake made by the license office. Given that, Jackson believes the license office should be responsible for paying the additional taxes, which is a position with which we empathize.

Unfortunately, we are unable to exempt Jackson's liability for the additional tax. Because this Commission was created by state statutes, we have only such authority as the

statutes give us.<sup>5</sup> Neither the Director, nor this Commission, has the power to change the law.<sup>6</sup>

The law provides that all applicable sales taxes, including all local sales taxes, must be paid when a vehicle is registered. Jackson did not pay the Columbia local sales tax when he registered his vehicle. Therefore, he must do so now. He is entitled to a credit against this amount of \$186.35, the amount he paid for Boone County's local sales tax.

### **Summary**

Jackson is liable for an additional \$331.28 in local sales tax on his purchase of a motor vehicle.

SO ORDERED on August 1, 2013.

*\s\ Sreenivasa Rao Dandamudi*  
SREENIVASA RAO DANDAMUDI  
Commissioner

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<sup>5</sup> *State Bd. of Reg'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974).

<sup>6</sup> *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).